

Counsel listed on the signature page.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

VOIP-PAL.COM, INC., a Nevada
corporation,

Plaintiff,

v.

APPLE INC., a California corporation,

Defendant.

VOIP-PAL.COM, INC., a Nevada
corporation,

Plaintiff,

v.

AMAZON.COM, INC., a Delaware
corporation; AMAZON TECHNOLOGIES,
INC., a Nevada corporation,

Defendants.

Case No. 5:18-cv-06216-LHK

**JOINT CLAIM CONSTRUCTION
AND PREHEARING STATEMENT**

[Patent L.R. 4-3]

Date: September 5, 2019

Time: 1:30 p.m.

Courtroom: 8, 4th Floor

Judge: Honorable Lucy H. Koh

Case No. 5:18-cv-07020-LHK

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Patent L.R. 4-3 and the Court’s January 16, 2019 Case Management Order (Case No. 5:18-cv-06216-LHK, D.I. 53), Plaintiff VoIP-Pal.com, Inc. (“VoIP-Pal”) and Defendants Apple Inc. (“Apple”) and Amazon.com, Inc. and Amazon Technologies, Inc. (“Amazon”) (collectively “Defendants”), through their undersigned counsel of record, hereby submit this Joint Claim Construction and Prehearing Statement:

1. Construction Of Claim Terms On Which The Parties Agree (Pat. L.R. 4-3(a))

Exhibit A, attached hereto, identifies the constructions of terms on which the parties agree.

2. Proposed Construction Of Disputed Terms (Pat. L.R. 4-3(b))

Exhibit B, attached hereto, identifies the claim terms and phrases that the parties have proposed for construction in this case, along with the parties’ respective proposed constructions for each disputed term or phrase, identification of all references from the specification or prosecution history that support the parties’ constructions, and identification of any extrinsic evidence on which the parties intend to rely either to support or oppose any proposed construction.

3. Identification Of Most Significant And Dispositive Claim Construction Disputes (Pat. L.R. 4-3(c))

The parties agree that the Court’s construction of the terms listed below will be most significant to the resolution of the case. In addition, the Court’s resolution of the first two disputes will be case-dispositive.

- “system” (*case dispositive);
- “network external to the system”/ “external network” (*case dispositive);
- “call controller”
- “Internet address”
- “processing the second participant identifier”
- “participant/user profile”

- “attribute”

4. Anticipated Length Of Time For Claim Construction Hearing (Pat. L.R. 4-3(d))

The parties anticipate that the length of time necessary for the Claim Construction Hearing will be two hours, assuming that the Court hears argument on no more than ten disputed terms.

5. Witnesses To Be Called At Claim Construction Hearing (Pat. L.R. 4-3(e))

VoIP-Pal’s Statement: VoIP-Pal may submit an declaration from, and may call as a witness at the Claim Construction Hearing, Bill Mangione-Smith, Ph.D. Dr. Smith may provide his expert opinion that a person of ordinary skill in the art at the time of the applications for patent would have interpreted “participant profile/user profile”, “routing message”, “network external to the system/external network”, “communication blocking information”, “call controller”, “communication system node”, and “processing the second participant identifier” in the Patents-in-Suit according to VoIP-Pal’s proposed constructions, as may be set forth in more detail in Dr. Smith’s expert declaration.

Defendants’ Statement: Defendants do not believe that expert opinion or testimony is appropriate or necessary at the Claim Construction Hearing (or for the Court’s resolution of claim construction issues). Nevertheless, Defendants reserve the right to rely on information obtained through the claim construction discovery process, including expert opinion in response to any opinions offered by VoIP-Pal’s expert.

6. Identification Of Factual Findings Requested From The Court Related To Claim Construction (Pat. L.R. 4-3(f))

VoIP-Pal’s Statement: VoIP-Pal seeks factual findings that a person of ordinary skill in the art at the time of the applications for patent would have interpreted the “participant profile/user profile”, “routing message”, “network external to the system/external network”, “communication blocking information”, “call controller”, “communication system node”, and “processing the second participant identifier” in the Patents-in-Suit as identified by Dr. Smith.

1 **Defendants' Statement:** Defendants do not believe that the Court needs to make any
2 factual findings (including with respect to the issues identified by VoIP-Pal above) in order to
3 rule on claim construction.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2 Dated: May 17, 2019

3 MALEK MOSS PLLC

4 /s/ Kevin N. Malek

5 Kevin N. Malek (*pro hac vice*)
6 340 Madison Avenue, Floor 19
7 New York, New York 10173
8 (212) 812-1491
9 kevin.malek@malekmoss.com

10 CARLSON & MESSER LLP

11 David Kaminski
12 J. Grace Felipe
13 5901 W. Century Boulevard Suite 1200
14 Los Angeles, California 90045
15 Tel: (310) 242-2200
16 Fax: (310) 242-2222
17 kaminskid@cmtlaw.com
18 felipeg@cmtlaw.com

19 *Attorneys for Plaintiff VoIP-Pal.Com, Inc.*

20 DESMARAIS LLP

21 /s/ Ameet A. Modi

22 John M. Desmarais (SBN 320875)
23 Ameet A. Modi (*pro hac vice*)
24 Robert C. Harrits (*pro hac vice*)
25 Michael J.X. Matulewicz-Crowley
26 (*pro hac vice*)
27 230 Park Avenue
28 New York, NY 10169
Telephone: (212) 351-3400
Facsimile: (212) 351-3401
jdesmarais@desmaraisllp.com
amodi@desmaraisllp.com
rharrits@desmaraisllp.com
mmatulewicz-crowley@desmaraisllp.com

Peter C. Magic (SBN 278917)
101 California Street, Suite 3070
San Francisco, CA 94111
Telephone: (415) 573-1900
Facsimile: (415) 573-1901
pmagic@desmaraisllp.com

Attorneys for Defendant Apple Inc.

PERKINS COIE LLP

/s/ Daniel T. Shvodian

James F. Valentine (SBN 149269)
Daniel T. Shvodian (SBN 184576)
3150 Porter Drive
Palo Alto, CA 94304-1212
Telephone: (650) 838-4300
Facsimile: (650) 838-4489
JValentine@perkinscoie.com
DShvodian@perkinscoie.com

*Attorneys for Defendants Amazon.com,
Inc. and Amazon Technologies, Inc.*

ATTESTATION

I, Kevin N. Malek, hereby attest that concurrence in the filing of this document has been obtained from counsel for all of the applicable Defendants for whom signatures have been provided.

By: /s/ Kevin N. Malek